

TRULINCS 54652509 - PARVIZ, MAHSA - Unit: SET-D-A

MAHSA PARVIZ
P.O. Box 13900
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NOV 13 2023

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

Petitioner

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MAHSA PARVIZ,
Petitioner,

v.

HOWARD BARRON,
Respondent.

Case No. 2:23-cv-01407-JHC-DWC

PETITIONER'S OBJECTIONS TO OSC OR
PAY THE FILING FEE (Dkt. # 7);
MOTION FOR ENTRY OF JUDGMENT

Comes now, Petitioner, MAHSA PARVIZ, and files PETITIONER'S OBJECTIONS TO OSC OR PAY THE FILING FEE (Dkt # 7) and MOTION FOR ENTRY OF JUDGMENT granting the unopposed habeas petition and ordering immediate release for the reasons herein.

I. THIS COURT SHOULD GRANT PETITIONER'S IFP APPLICATION

1.1 Petitioner is in Federal custody at the Bureau of Prisons' Federal Detention Center SeaTac.

1.2 Petitioner filed the instant cause on September 4, 2023, challenging the execution of her sentence and requesting that her earned time credits be applied in order to effect immediate release from custody. Petitioner concurrently served a copy on Counsel for Respondents via the email address provided for ECF service, USAWAW.HABEAS@USDOJ.GOV, via USPS First Class mail at P.O. Box 13901, Seattle, WA 98198, and personally to Respondent at Federal Detention Center SeaTac, all on September 4, 2023.

1.3 Although the Court docketed this Petition on September 8, 2023, the mailbox rule deems this matter filed as of the date the Petition was deposited in the mailbox for filing, September 4, 2023. Under the "mailbox rule," a pleading filed by a pro se prisoner is deemed to be filed as of the date the prisoner delivered it to prison authorities for mailing to the court clerk, not the date on which the pleading may have been received by the court. See *Houston v. Lack*, 487 U.S. 266, 270, 108 S. Ct. 2379, 101 L. Ed. 2d 245 (1988). The certificate of service reflects that Petitioner delivered the Petition to prison authorities for mailing on September 4, 2023, which the Court should adopt as its constructive filing date. Attached hereto as 'EXHIBIT A' and fully incorporated herein for all purposes is a true and correct copy of correspondence documenting filing of the instant cause on September 4, 2023.

1.4 Petitioner submitted an Application to proceed in forma pauperis and subsequently requested the Clerk issue subpoenas under Fed. R. Civ. P. 45 for document production in this matter.

1.5 The Hon. Chief Magistrate David W. Christel entered an Order to Show Cause or Pay the Filing Fee (Dkt. #7) on October 20, 2023 (hereinafter "OSC"). Petitioner has not yet been served with a physical copy of the OSC but files these objections in the interests of judicial efficiency and justice.

1.6 Although Petitioner has more than \$5.00, the cost of the filing fee, in her prison trust account, Petitioner is not able to obtain full relief sought absent an order granting her application to proceed in forma pauperis. The cost of issuance and service of a single subpoena is approximately \$60.00, which exceeds the amount of funds Petitioner has in her prison trust account. Petitioner paid the \$5.00 filing fee on October 27, 2023, however, there are additional fees and costs associated with obtaining a final disposition in this suit, such as certified mail fees, printing and copy fees, transcript fees, and service fees, all of which exceed Petitioner's present financial ability.

1.7 Accordingly, Petitioner prays that her application to proceed in forma pauperis be granted.

TRULINCS 54652509 - PARVIZ, MAHSA - Unit: SET-D-A

II. THIS COURT SHOULD GRANT THE UNOPPOSED HABEAS PETITION AND ORDER IMMEDIATE RELEASE

2.1 A Respondent generally has 60 days from the date of service to object or file a responsive pleading to a habeas petition under 28 U.S.C. Sec. 2241. Petitioner filed the habeas petition on September 4, 2023. Accordingly, the deadline to file a motion to dismiss or other responsive pleading was Friday, November 3, 2023. The Government does not oppose Petitioner's requested relief. Moreover, Petitioner has, on October 28, 2023, October 29, 2023, and November 3, 2023, communicated with Respondent regarding this Court's deadline to file their response and has made efforts to expedite her sentence calculation and effect her release without waiting for Court intervention.

2.2 Respondent indicated they do not intend on contesting Petitioner's habeas petition and stated that they are waiting for an update from the Courts in order to effect Petitioner's release. Attached hereto as 'EXHIBIT B' and fully incorporated herein for all purposes is a true and correct copy of correspondence from October 2023 with Respondent.

2.3 Petitioner moved this Court for an order directing Respondent to answer within 30 days and provided the corresponding order, which, on information and belief, is docketed as the third docket entry.

2.4 Petitioner is clearly entitled to habeas relief. Petitioner has demonstrated that the sentencing court determined her Texas state offense of attempted kidnapping was relevant conduct. Petitioner began serving her sentence for attempted kidnapping on August 9, 2019, the offense date. Petitioner also served her sentence for her Texas state offense of tampering with government document, which the sentence determined was not relevant conduct, on August 9, 2019. Petitioner was sentenced on the foregoing offenses on January 5, 2021. Because Petitioner did not receive credit from the sentencing court, she is entitled to mandatory credit by the BOP pursuant to 18 U.S.C. Sec. 3585.

2.5 In the alternative, Petitioner prays that this Court issue an order to show cause why this Petition should not be granted or an order directing Respondent to answer within a time-frame not to exceed 30 days.

III. VERIFICATION

3.1 I, Mahsa Parviz, am the Petitioner in this matter. I hereby swear under penalty of perjury that the foregoing facts are true and correct to the best of my knowledge.

Executed on November 8, 2023 in Seattle, Washington.



MAHSA PARVIZ

IV. CERTIFICATE OF SERVICE

4.1 I hereby swear under penalty of perjury that I served Respondent a true and correct copy of the foregoing via USPS First Class mail on November 8, 2023, at the following addresses:

HOWARD BARRON, JR.
ATTN: COUNSEL (In re: Cause No. 2:23-cv-01407-JHC-DWC)
P.O. BOX 13901
SEATTLE, WA 98198

US HABEAS ATTORNEY'S OFFICE
ATTN: TEAL MILLER (In re: Cause No. 2:23-cv-01407-JHC-DWC)
700 STEWART AVENUE
SEATTLE, WA 98101

Date: November 8, 2023

Respectfully submitted,

/s/ Mahsa Parviz
MAHSA PARVIZ



Exhibit A B

TRULINCS 54652509 - PARVIZ, MAHSA - Unit: SET-D-A

FROM: Warden
TO: 54652509
SUBJECT: RE:***Inmate to Staff Message***
DATE: 10/30/2023 01:57:02 PM

This is in response to your Inmate Request to Staff regarding calculation of sentence.

Once an update from the Courts is provided, we will act accordingly.

From: ~^! PARVIZ, ~^!MAHSA <54652509@inmatemessage.com>
Sent: Sunday, October 29, 2023 3:29 PM
Subject: ***Request to Staff*** PARVIZ, MAHSA, Reg# 54652509, SET-D-A

To: WARDEN HOWARD BARRON
Inmate Work Assignment: N/A

Dear Warden Barron,

Please be advised that today, 10/28/2023, I mailed via USPS mail, a copy of the petition and all recent filings in Cause No. 2:23-cv-10407-JHC-DWC in the Western District of Washington to you at P.O. Box 13901, Seattle, WA 98198.

A response by the US Habeas Attorney should be filed within 60 days from the date the petition is filed. After the 60 day deadline, the Court generally enters an order directing the BOP to calculate the time-credits within 20 days. I have 512 days of credit and, at this time, approximately 275 days of FSA time credits, which means I have exceeded my release date.

Will the BOP please expedite the calculation and effect my release?

Sincerely,

/s/ Mahsa Parviz

-----Warden on 9/12/2023 9:02 AM wrote:

>

This is in response to your Inmate Request to Staff regarding earned time credits.

Your information is noted. Once received, we will act accordingly.

From: ~^! PARVIZ, ~^!MAHSA <54652509@inmatemessage.com>
Sent: Tuesday, September 5, 2023 9:28 PM
Subject: ***Request to Staff*** PARVIZ, MAHSA, Reg# 54652509, SET-D-A

To: WARDEN HOWARD BARRON
Inmate Work Assignment: N/A

Dear Warden H. Barron,

I have submitted a Petition for Writ of Habeas Corpus under 28 U.S.C. Sec. 2241 yesterday for filing in the Western District of Washington at Seattle (related Case No. 2:23-cv-0755-RSL). You and BOP Director C. Peters are named as Respondents in your official capacities. I am requesting my earned time credits be applied. The email address I have for the US Habeas Attorney is USAWAW.HABEAS@USDJOJ.GOV. I have mailed a copy of the petition to you at P.O. Box 13901, Seattle, WA 98198.

Please let me know if you have any questions.

Sincerely,
Mahsa Parviz



Martha
c/o Federal detention center Seattle
P.O. Box 13900
Seattle, WA 98198

US Dist. Court - Western WA
Attn: Clerk for filing in Case No. 2:23-cv-01407-JH
700 Stewart St.
Seattle, WA 98101



FILED
1000000
RECEIVED
MAIL
NOV 13 2023
AT SEATTLE
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY